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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,765	01/05/2004	Pierluca Lombardi	03-728	2275

34704 7590 05/31/2006

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NEW HAVEN, CT 06510

EXAMINER

GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/751,765	LOMBARDI, PIERLUCA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew M. Gilbert	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-12, and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention III: Claims 12-22 and Species II: Embodiment shown in Figure 3, with claims 13-19 and 21-22 readable thereon, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/12/2006.
2. Furthermore, claim 19 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Claim 19 is drawn to an apparatus wherein the pressure-operated valve is adapted to release negative pressure from the housing and the threshold is a maximum negative pressure; however, the elected species is drawn only to releasing positive pressure above a maximum positive pressure threshold.
3. Thus, claims 13-18, and 21-22 stand drawn to the elected invention and species and are pending for examination.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

4. The drawings are objected to because the lines, numbers and letters are not uniformly thick and well defined. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

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amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claim 18 is objected to because of the following informalities: Claim 18 recites the limitation "the second element" in ln 2. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 12-18, 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Binard et al (4403988). Binard et al discloses an apparatus for regulating pressure

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applied during a medical procedure, comprising: an inelastic housing (50) enclosing an inner volume, the housing having a first and second end (Fig 9); an aperture (52) in the housing for coupling to an element (22) for applying a pressure during medical procedure, the element having an inner volume communicated with the inner volume of the housing; and a pressure-operated valve (64) coupled to the housing for providing access the inner volume of the housing when pressure in the housing is above a threshold, whereby the valve releases pressure from within the inner volume of the housing (col 5, Ins 30-64); wherein the housing is a cylindrical inelastic housing enclosing the inner volume (Fig 11); wherein the pressure-operated valve comprises: an opening (66) in the housing; a plunger (68) disposed within the inner volume of the housing; a spring (74) disposed within the inner volume of the housing, wherein the spring is positioned between the second end of the housing and the plunger (Fig 9), wherein the plunger in a rest position is between the opening and the aperture (Fig 9), and wherein as fluid is inserted into the inner volume of the housing via the aperture (col 5, Ins 30-64), increased pressure within the inner volume of the housing moves, the plunger moves toward the opening (Fig 10); wherein the opening is positioned in a side of the housing (Figs 9-10) providing access to the inner volume the housing, wherein at normal pressure the opening is closer to the second end than the plunger and wherein as pressure within the inner volume of the housing increases so as to move the plunger past the opening (Fig 10), the pressure within the inner housing is released through the opening; wherein the pressure-operated valve is adapted to allow selection of the threshold (col 2, Ins 5-8; col 5, Ins 30-64); wherein a plurality of openings (82, 84a, 84b)

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are positioned along the second element, and further comprising a selector member (68) movably mounted relative to the plurality of openings and positionable so as to selectively open one and block others of the plurality of openings (Figs 9-10); a pressure operated valve communicated with the inner volume of the housing and adapted to release pressure from the inner volume when pressure in the inner volume is above a threshold (col 5, Ins 30-64); wherein the housing is a syringe (22; Figs 1-20) comprising a substantially inelastic housing enclosing the inner volume and a plunger within the inelastic housing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Gilbert

KEVIN SIRMONS  
PRIMARY EXAMINER

